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CENTURY • A NEW ERA FOR PUBLIC LAND MANAGEMENT

U.S. DEPARTMENT OF INTERIOR • BUREAU OF LAND MANAGEMENT

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The Federal Land Policy & Management Act of 1976

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As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interests of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

U.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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The Federal Land Policy & Management Act of 1976

AMERICA'S THIRD CENTURY

A NEW ERA FOR PUBLIC LAND MANAGEMENT

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The Federal Land Policy and Management Act of 1976, passed in the closing hours of the 94th Congress and signed by the President on October 21, may prove to be the most significant piece of land legislation enacted within this century. It is the first clear-cut mandate Congress has ever given to the Bureau of Land Management for the administration of the 473 million acres of Federal lands under its jurisdiction. In acres, this is more land than is held by all the other Federal agencies combined.

Perspective

AMERICA'S HERITAGE

Most of this land is what is left of the Nation's public domain. Public domain lands are defined as land that has never been in private ownership. At one time or another, more than 1.8 billion acres of the 2.3 billion acres of land that now makes up the 50 United States was a part of the public domain. That was the bulk of all land west of the Appalachian Mountains. The public domain provided the land that now makes up many of our National

Parks, National Wildlife Refuges, National Forests, Defense installations and the holdings of other Federal agencies, but the greater part of the public domain passed into private ownership during the course of westward expansion and settlement.

The 473 million acres that are left are an additional land base to be used in the national interest and in the public benefit. These lands have been called "unappropriated" because they have never been designated for a

special purpose as have the National Parks and National Forests. They have also been called "Our Last Frontier."

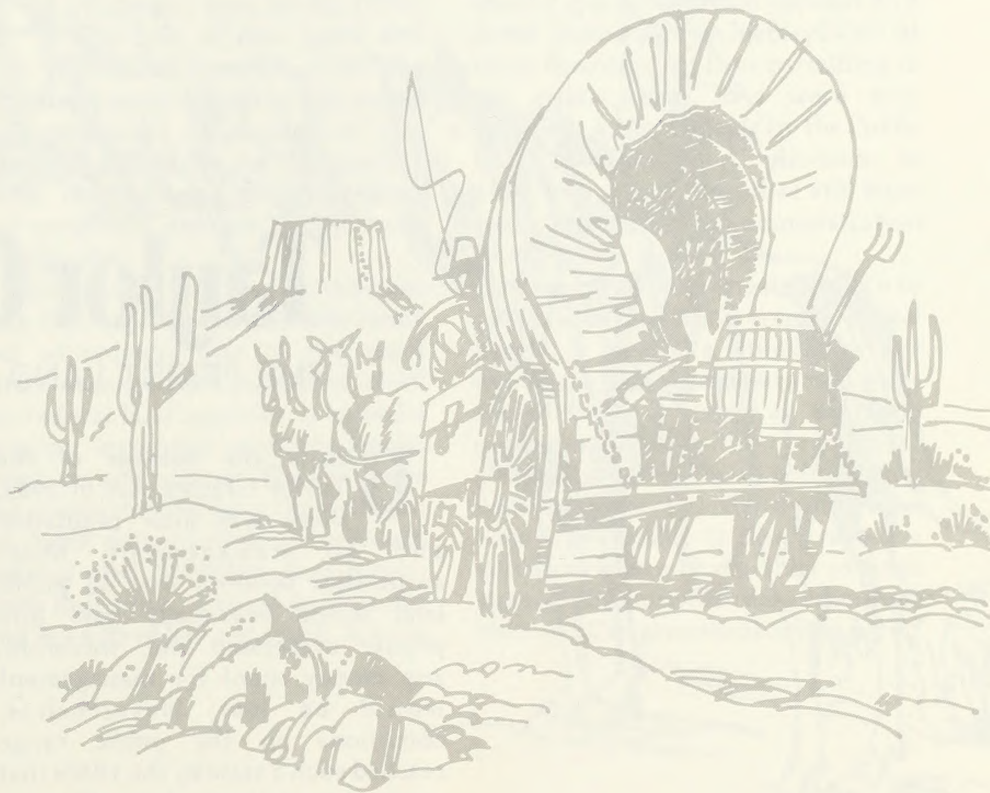
The first public domain was created in 1780 when New York State surrendered its claim to western lands in favor of the Federal Government. Other colonies followed New York's example and, by 1802, all of the original States having such claims had ceded their western lands beyond the Appalachian Mountains to the Central Government. Thereafter, lands acquired in the course of national expansion were considered as public domain — belonging to all the people of the United States.

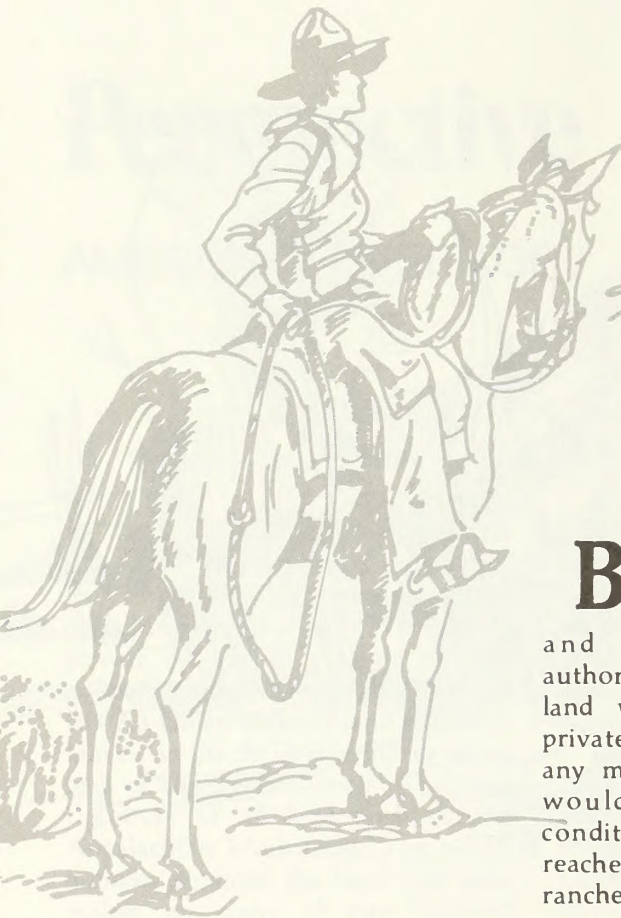
In 1812, Congress established the General Land Office to administer the public lands. Later, this office was combined with the U.S. Grazing Service to create the present day Bureau of Land Management. In 1946, the Bureau became responsible for all programs pertaining to the unappropriated public lands.

Wagons West

RICH LAND RESOURCES

As settlers moved into the West, the public lands and public land resources contributed to the economic well-being of western communities. Mining, lumbering, and ranching soon became the traditional uses of the public lands and the wildlife attracted hunters and fishermen. These traditional uses dominated public land policy and thinking for many years.



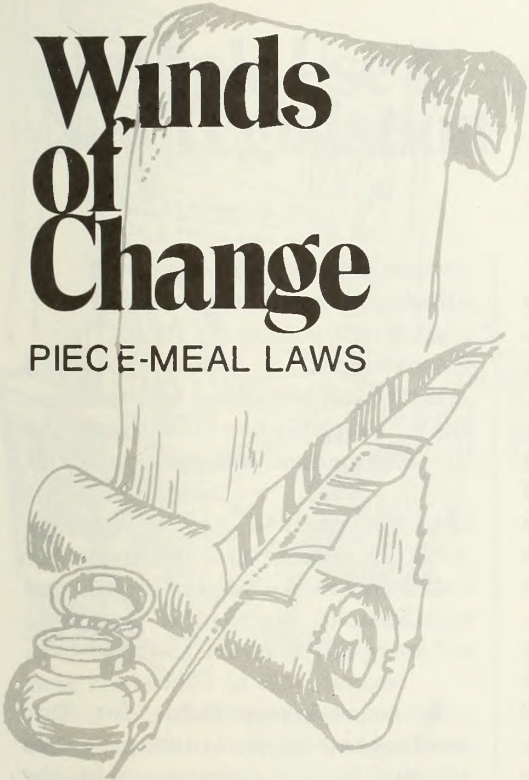


Taylor Grazing Act

THE "FIRST LAND MANAGEMENT PROGRAM"

Before the passage of the Taylor Grazing Act in 1934, there was little regulation and no management. Most authorities believed that all public land would eventually pass into private ownership and, therefore, any money spent for management would be lost. Nevertheless, conditions on the public range reached such a state by the 1930s that ranchers were demanding action.

Congress responded by passing the Taylor Grazing Act which provided the first program of active management of public domain lands. However, the Act was limited in scope and objectives. It was designed solely to regulate livestock grazing and to improve the productive capacity of the public range, and it recognized a single constituency — the domestic livestock operator.



Winds of Change

PIECE-MEAL LAWS

New winds of change were starting to blow by the 1950s as a host of new users and uses started to compete with the traditional users for space and public land resources. As a result of the growing popularity of the public lands, the Bureau's responsibilities and programs became vastly more complicated.

While the Bureau had jurisdiction over the largest area of public lands and administers one of the most varied management programs of all the Federal land agencies, it lacked a clear-cut legislative mandate for its programs and policies. The Congress had passed the first laws pertaining to the public domain while we were still fighting the American Revolution. Since that time, thousands of public land laws have been enacted. A good

portion of these laws were passed to meet a special situation peculiar to a given period of our history. Out of these thousands of laws pertaining to the public lands, few were ever repealed. A report made by the Public Land Law Review Commission in 1964 lists 2,669 laws that still have some bearing on the administration of the public lands.

In time, this piece-meal approach to public land legislation created a legal jungle. It created a situation where managers and administrators were forced to hack away at the legal entanglements in their efforts to provide programs and policies that were responsive to the needs of the American public. It also created a situation where change had to come through Executive Order rather than through Congressional action.

A Contemporary Agency

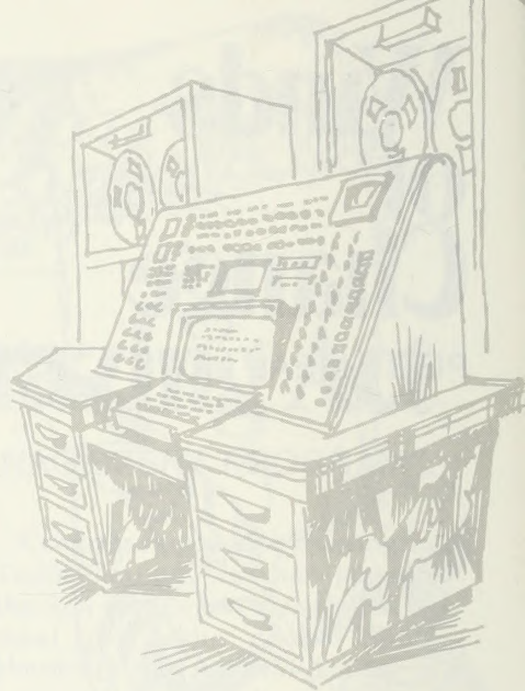
IN THE NATION'S THIRD CENTURY

Today, the Bureau administers one of the most complex land management programs of any agency within the Federal Government. It is the custodian of original patent and survey records for 30 of the 50 United States. It is the final authority on all survey matters involving land within, or once a part of, the public domain. It administers the mineral leasing program on all lands under its jurisdiction, on the Outer Continental Shelf, on lands held by other Federal agencies and on private lands whose mineral rights are reserved to the Federal Government.

It manages the recreational resources of the public lands and is responsible for the protection and

development of cultural resources on the public lands. It manages wildlife habitat on land under its jurisdiction and is responsible for the protection, management, and control of wild horses on the public lands. It manages timber resources on 2 million acres of prime Douglas fir forest lands in western Oregon and on 23 million acres of other commercial forest lands in other public land States.

It is responsible for fire protection on BLM land and works closely with the Forest Service and other Federal and State agencies in cooperative interagency fire suppression. It is responsible for the disposal of land under its jurisdiction and of the public domain land held by other Federal agencies.



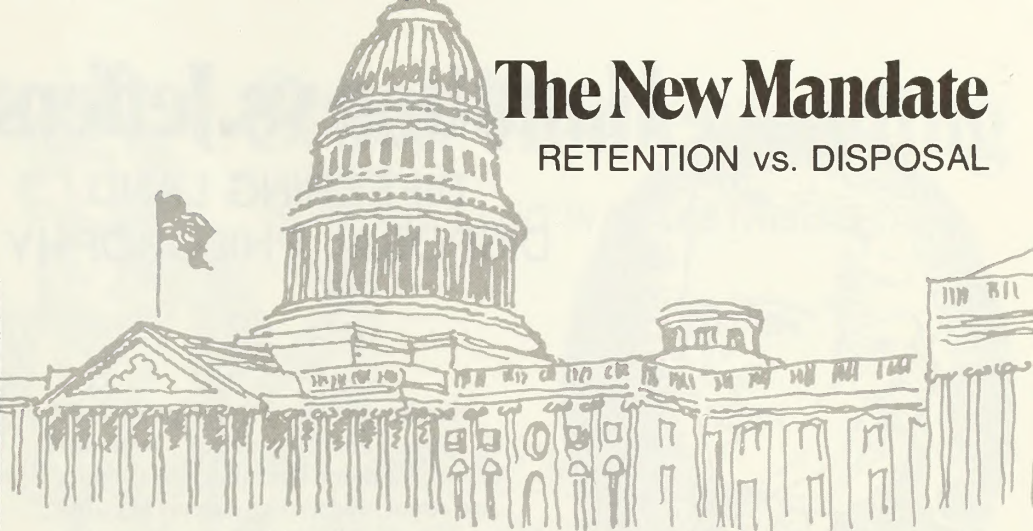
It is also responsible for land exchanges in support of the programs of other Federal agencies and for the granting of rights-of-way across Federal lands and for the construction of pipelines, electric transmission lines and other public utilities.

Multiple Use & New Legislation

In light of its multiple responsibilities and the complexity of its programs, the Bureau has long needed a Congressional statement of policy and modern legislative mandate and authority for the active coordinated management of the public lands.

From the time the Bureau of Land Management was created in 1946, successive Presidents have called for a legislative reform and consolidation of the public land laws. Congress has now responded to that request.

The role of Congress in providing this mandate is clearly set forth in article 4, section 3, clause 2 of the Constitution. The 94th Congress has met this Constitutional responsibility in the Federal Land Policy and Management Act.



The New Mandate

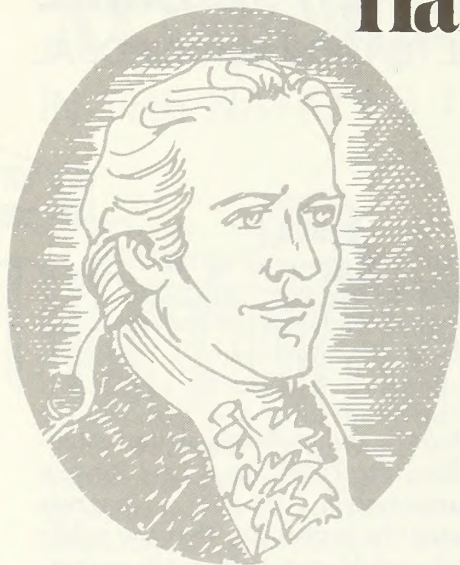
RETENTION vs. DISPOSAL

In its preamble, the new Act declares that with an exception for individual tracts which may be disposed of in the national interest, it is the policy of the United States to retain its public lands in Federal ownership. Congress had already enunciated the policy of Federal retention of the unappropriated public lands in 1964 when it passed three laws pertaining to the public lands. In two of these Acts, the Classification and Multiple Use Act

(88-607), and in the legislation establishing the Public Land Law Review Commission (88-606), Congress stated the probability that the public lands would remain in public ownership. However, each of these Acts was enacted as interim legislation pending the report of the Public Land Law Review Commission and expired in 1970. The policy of retention was a reversal of the policy of disposal that dated back to the Revolution.

Hamilton vs. Jefferson

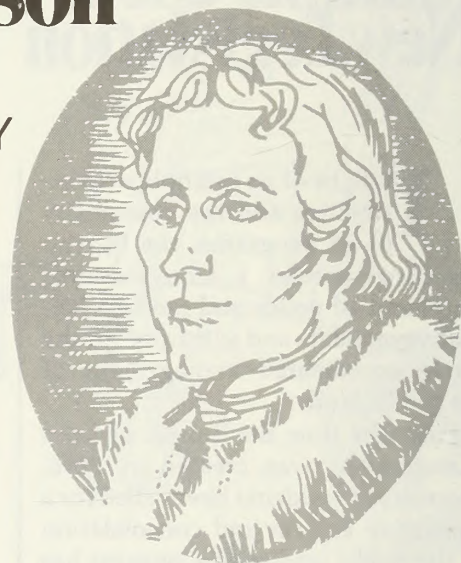
DIFFERING LAND DISPOSAL PHILOSOPHY



Although Alexander Hamilton and Thomas Jefferson championed widely divergent views about the role of the public domain in the Nation's future, both men thought that all public land would eventually pass into private ownership.

Hamilton wanted to sell public land to raise Federal revenue. Jefferson favored a more liberal disposal policy and advocated giving parcels of public land to landless citizens based on need. Prior to 1862 the Hamiltonian view prevailed, then Congress passed the Homestead Act — intended to provide land to any settler who was willing to live on the land and bring virgin soil under cultivation.

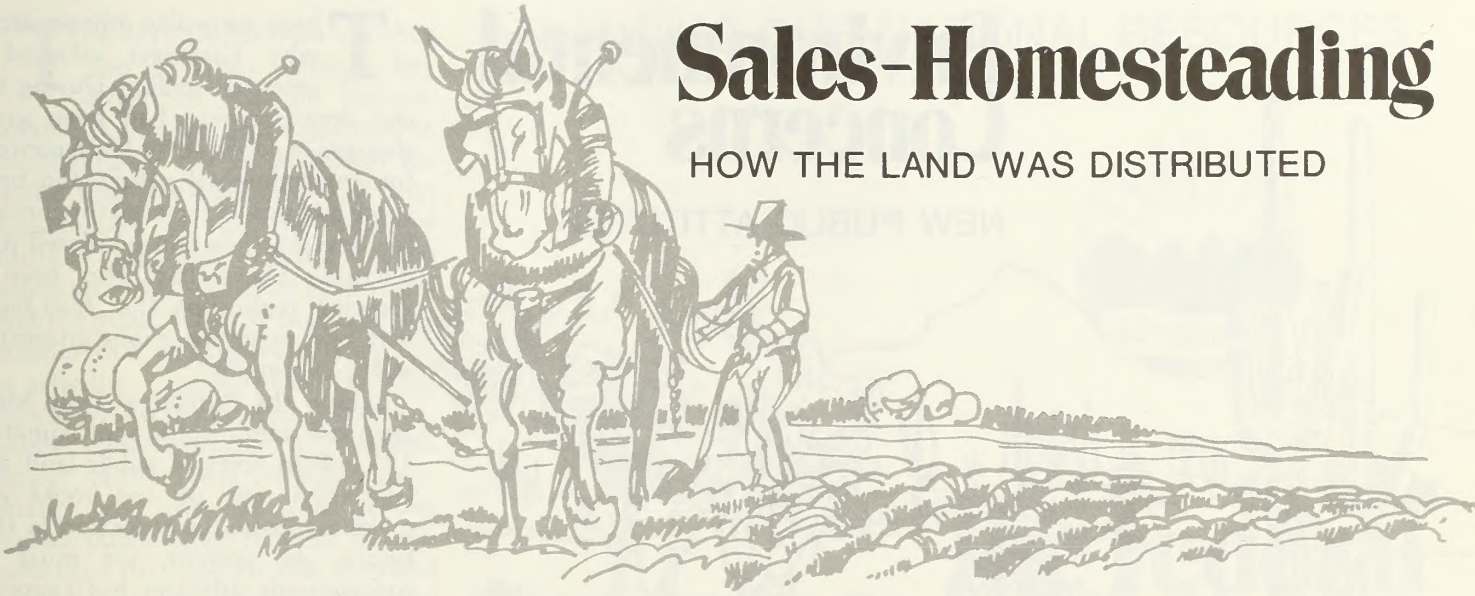
There was sound reasoning behind the disposal philosophy as long as there was an abundance of agricultural land in the public domain or land that could profitably be put to private use. In the years that followed the



Revolution and down to relatively recent times, Congress has enacted many laws pertaining to the disposal of the public domain. It was the intent of these laws to encourage development and settlement in the sparsely or unsettled areas of the Nation.

Sales-Homesteading

HOW THE LAND WAS DISTRIBUTED



The sale of public land eventually approached 303 million acres. More than 287 million acres were claimed under the Homestead Act and grants to the States for all purposes totaled 328 million acres. Land was also granted to military, to railroads, or sold under a variety of other laws. All told

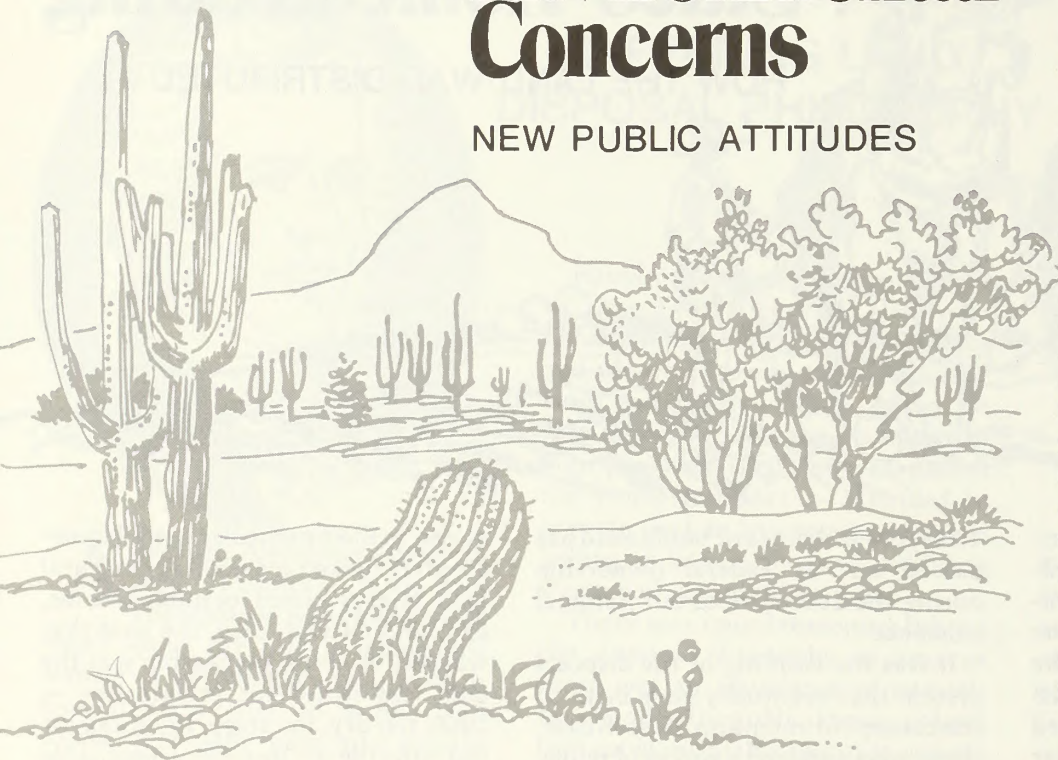
1,144,100,000 acres of public land has passed out of Federal ownership during the 200 years of our national existence.

It was the working of the disposal system that eventually gave birth to the concept of retention. In each case, those who acquired a parcel of public land tried to select land that was best

suited to their particular need. Homesteaders looked for good agricultural land, miners looked for mineral lands, etc., and, in each case, the land that was left in public ownership was the land less suited for private use — lands too dry, too steep, too rocky, or too infertile to provide a profitable return to a private owner.

Environmental Concerns

NEW PUBLIC ATTITUDES



There were also other reasons why Congress adopted a retention policy. During the last decade, there had been great changes in public attitudes. A concern for environmental values and open space had slowly replaced the concern for development and increased production. There had also been a growing realization that frail lands may best serve the public interest in public ownership.

Today, the Bureau of Land Management administers approximately 473 million acres of public land, but legislation now on the books will make a substantial reduction in that figure. At present, we must be content with estimates, but it appears that the final tally for the unappropriated public lands will be in the neighborhood of 250 million acres.

These are the lands covered under the new Federal Land Policy and Management Act.

The Act's Declaration of Policy also specifies several key directions for the Bureau, notably that: goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law; and that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

A summary of the Act and its major provisions follow. References to specific sections of the Act are included in parentheses.

BALANCING OUR NATIONAL RESOURCES



The Federal Land Policy & Management Act of 1976

Veto of Management Decisions by Concurrent Resolutions of the House and Senate

Several types of management decisions made by the Bureau must be sent to Congress for review and are subject to "veto" by concurrent resolutions of the House and Senate. Among them are:

Decisions eliminating one or more principle uses of land for two or more years on tracts containing more than 100,000 acres of public land. (202)

Decisions to sell tracts of public land in excess of 2,500 acres. (203)

Withdrawals of tracts of public land in excess of 5,000 acres. (204)

Disposition of Public Land

The Act prohibits the sale of public land to non-citizens or to corporations not incorporated under State or Federal law. (207)

It provides authority for the Secretary of the Interior to insert terms and conditions into patent to insure the proper land use and to protect the public interest. The Secretary is prohibited from inserting terms and conditions into land patents that violate existing State and local land use plans and programs. (208)

It provides for the reservation of minerals to the United States in public land sales, but allows for conveyance of such rights in certain specified situations. (209)

It requires the Bureau to notify State and local governments of pending land sales in order to give them an opportunity to zone or otherwise regulate the use of the land before the sale. (210)

It authorizes the Secretary of the Interior to dispose of certain omitted lands without a survey. (211)

It amends the Recreation and Public Purposes Act by increasing the amount of land that the Bureau can

sell or lease under its authority and allows some leases of land for recreational use without charge. It also requires public participation on all decisions to dispose of public land under the Recreation and Public Purposes Act, for the Secretary to determine that the land requested under the Act is to be used for an established or definitely proposed project, and the preparation of comprehensive land use plans and adoption of zoning regulations for disposals in excess of 640 acres. (212)

It amends the Unintentional Trespass Act to allow the rights of first refusal to persons having preference rights and the establishment of fair market value of such land as of September 26, 1973. (214)

Exchanges of Public Land

It provides for cash payments to equalize values when public lands are exchanged for private land provided the payment does not exceed 25 percent of the total value of the public land being transferred. (206)

Land Acquisitions

It provides authority for the Bureau of Land Management to acquire land where such acquisitions are consistent with the Departmental mission and with applicable land use plans, but it limits the use of power of eminent domain to certain specified situations in the acquisition of land.

It allows the Department of the Interior to use money from the Land and Water Conservation Fund to acquire land needed for the proper management of public recreation lands. (318)

It adds two areas to the King Range National Conservation Area. (602)

Management of Lands

The Act requires the inventory and identification of the public lands and provides authority for marking and mapping of these lands as funds and manpower are made available. (201)

It calls for comprehensive land use planning. (202)

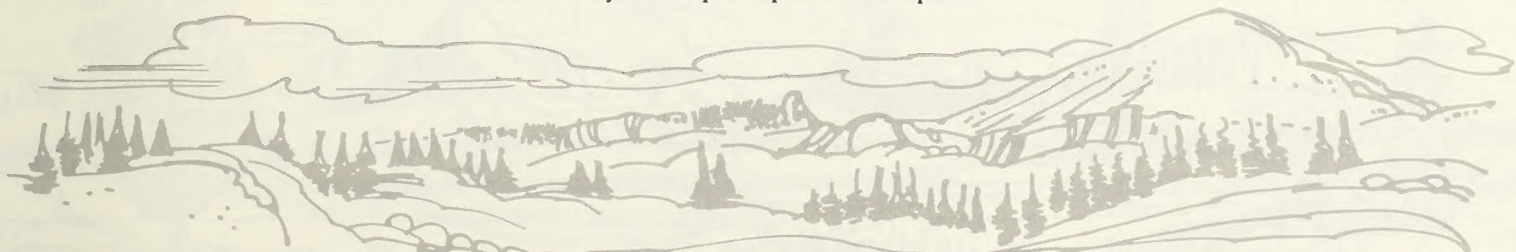
It provides broad management authority under principles of multiple

use and sustained yield in accordance with land use plans. (302)

It provides for a comprehensive long-range plan and an interim program for the California Desert Conservation Area. (601)

Public Participation

The Act calls for public participation in land use planning and other aspects of land management including public hearings, public meetings and the submission of written comments and suggestions prior to reaching management decisions in many areas of public land management. (202)



Individual Use of Public Lands

The Act authorizes the Department of the Interior to issue easements, permits, licenses and leases including long-term leases to individuals for the habitation, cultivation and for the development of small trade and manufacturing concerns. (302)

Law Enforcement and Regulatory Authority

The Act provides for the enforcement of public land laws and regulations by Federal personnel or by appropriate local officials authorized by the Secretary of the Interior. (303)

It authorizes cooperative agreements between the Department and local regulatory and enforcement authorities. (303)

It authorizes the Secretary of the Interior to make rules and regulations pertaining to the public lands. (310)

Finances

It reasserts some provisions of the Public Land Administrators Act and authorizes the Secretary of the Interior to establish service charges and to require payment for the execution of applications and other documents pertaining to the public lands and to refund excess payments made to the Department. (304)

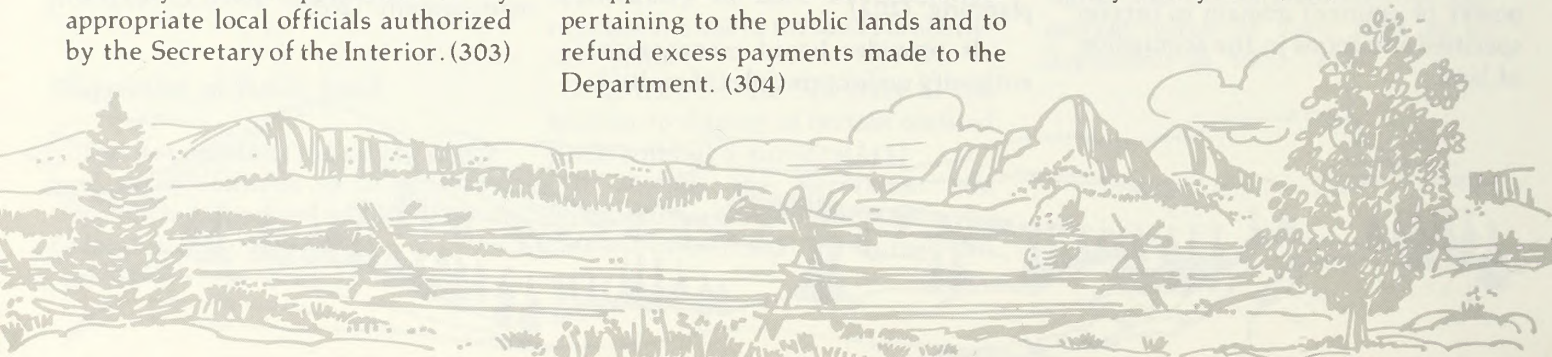
It authorizes the Department to forfeit payments made by contractors who fail to meet contract obligations. (305)

It establishes a capital working fund for the Bureau of Land Management. (306)

It allows the Secretary of the Interior to accept contributions. (307)

It allows the Bureau to renew contracts for aircraft used in survey and resource protection twice annually within each year without further competition. (303)

It requires specific authorization for appropriations for all BLM programs with requests to be made every four years. (318)



Domestic Livestock Grazing

It authorizes the Secretary to conduct a study to determine the value of domestic livestock grazing on the public lands so that he may establish an equitable fee. Grazing fees may not be raised until a report due within one year is submitted to Congress. It prohibits any raise in the grazing fee for the year 1977. (401)

It provides for ten-year grazing permits and for two years' notice before any permit is canceled in order to use the land for another public purpose unless there is an emergency situation. (402)

It provides a formula for the distribution of funds collected from grazing fees. Fifty percent of all

money collected will be used for range improvement programs. One-half of this money must be spent in the district or region where it is collected. The rest of the 50 percent may be spent in other areas at the discretion of the Secretary of the Interior. It also exempts the annual distribution and use of range improvement funds from provisions of the National Environmental Policy Act. (401)

It provides for the appointment of grazing advisory boards to advise the Secretary of the Interior on allotment plans and on the distribution of range improvement funds. (403)

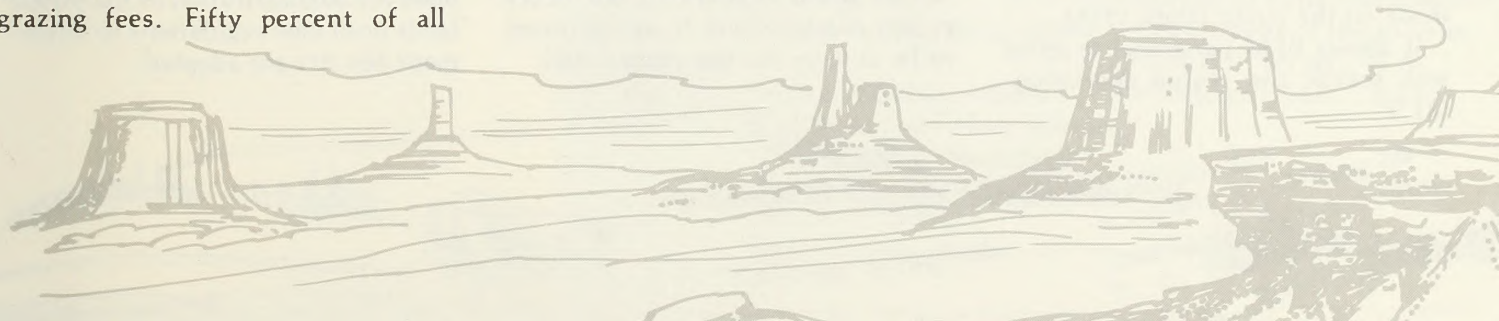
It authorizes the use of helicopters in the administration of the Wild Horses and Burros Act. (404)

Minerals and Energy

It provides a formula for the distribution of funds collected under the Mineral Leasing Act of 1920 and under the Geothermal Steam Act of 1970. (317)

It authorizes loans to States and local governments to relieve social and economic impacts caused by mineral development. (317)

It requires persons now holding mining claims under the General Mining Law of 1872 to record those claims with the Bureau of Land Management. Failure to record claims will be considered evidence of abandonment. (314)



Other Features

It authorizes the Secretary to control mining to the extent that he can by regulation or otherwise, take actions necessary to prevent unnecessary or undue degradation of the land. (302)

It authorizes the Bureau to revoke use permits when the permittee violates certain laws. (302)

It prohibits unauthorized use, occupancy, or development of the public lands. (303)

It authorizes studies, allows the Secretary to enter into cooperative agreements and to accept contributions. (307)

It requires an annual report to be made on the public lands. (311)

It allows BLM personnel to enter into search and rescue operations. (312)

It allows the Secretary to make corrections in patents and other public land documents. (316)

It provides broad authority to grant right-of-way across public lands and to insert terms and conditions for their use. It allows cost sharing in financing the construction of roads and allows the Bureau to create rights-of-way corridors and to suspend or terminate the use of rights-of-way. (501 - 511)

It directs the Bureau of Land Management to complete a study of potential wilderness areas within 15 years. (603)

It repeals many of the old public land laws, including the Homestead Act for all States of the United States except Alaska where it will continue to be in force for ten years. (702)

NOTE: Although the Homestead Act is still in effect in Alaska, all land disposal actions there have been suspended by the Alaska Native Claims Act and will remain in suspension until the claims of Alaska's Native People are satisfied.

Although the Federal Land Policy Act is now the law of the land, some of its provisions cannot be implemented until the Department of the Interior has adopted implementing regulations. Interior officials say that this will take some time. However, under the provisions of the new Act, all Departmental regulations will remain in force until replaced by the new regulations, and will serve as the basis for administration of the public lands until new regulations to implement the Act are adopted.



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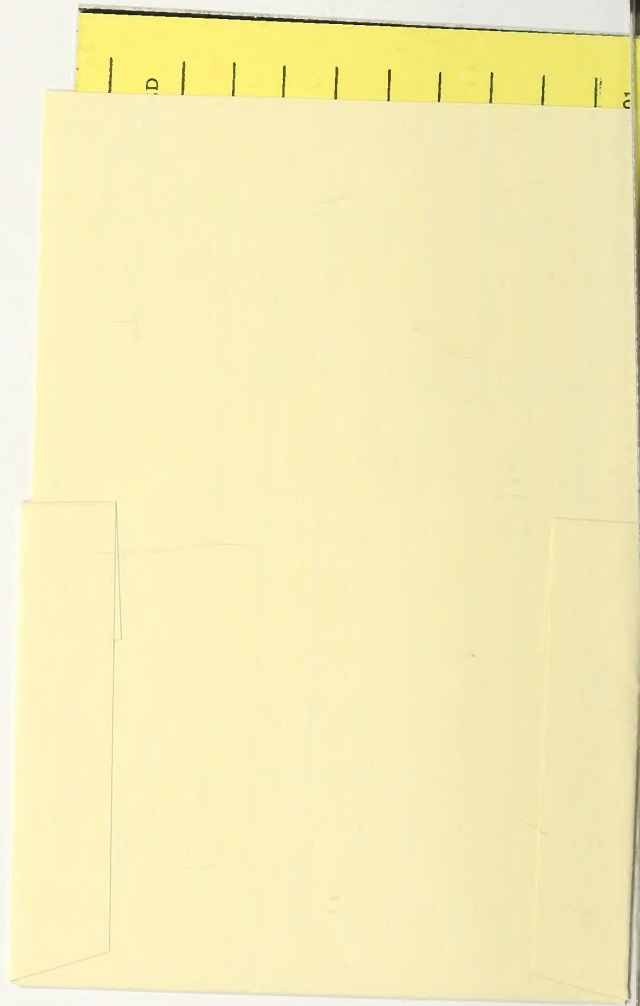
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